

U.S. Application Serial No. 10/694,249
Attorney Docket: 46107-0034
Reply to Office Action of March 29, 2005

REMARKS

In the Office Action dated March 29, 2005, the Examiner (1) objects to the abstract, (2) objects to Claims 12 and 15 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention, (3) rejects Claims 1-3, 5-7, 11, and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. Re. 33,742 to Blessing et al., (4) rejects Claims 12 and 14-15 under 35 U.S.C. § 103(a) as being unpatentable over Blessing et al. in view of U.S. Patent No. 5,527,229 to Ishihara et al., and (5) indicates that Claim 4 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By this response, Applicants amend Claims 1 and 13 to address the rejections under items (3) and (4), amend Claim 4 to address item (5), amend Claim 3 to address a typographical error, and cancel Claims 8-10 and 16-24. For the reasons stated herein, Applicants submit that each of the pending claims 1-7 and 11-15 are in a condition for allowance.

Applicants have amended the abstract and are submitting a new sheet containing the amended abstract to overcome the Examiner's objection to the abstract. Applicants respectfully submit that the specification is now in proper language and format.

In regards to the Examiner's rejections under 35 U.S.C. § 112, Applicants respectfully submit that the limitations objected to by the Examiner are not indefinite. The limitation in Claim 11 states that the retainer plate is coupled to said housing to resist axial forces from said planetary carrier such that "said planetary carrier is selectively configurable to function as a torque biasing differential or an open differential." The limitations in Claim 12 refer in total to the above phrase, such that the following phrase in Claim 12 should be read as a whole "when said planetary differential is configured as a torque biasing differential". It would be unclear if the limitation in Claim 12 stated "when said planetary differential is configured to function as said torque biasing differential" because as stated in Claim 11, the planetary differential may "function as a torque biasing differential or an open differential". Applicants

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respectfully submit that the above remarks regarding Claims 11 and 12 are also applicable to the Examiner's rejection of Claim 15 which depends upon a similar limitation in Claim 14. Applicants submit that the Examiner's objections to Claims 12 and 15 are overcome and that Claims 12 and 15 are in a condition for allowance.

The Examiner originally rejected Claims 1-3, 5-7, 11 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. Re. 33,742 to Blessing et al. Applicants respectfully submit that amended Claims 1 and 13 and depending Claims 2-3, 5-7, and 11 define over Blessing and are in a condition for allowance.

Blessing is directed to a locking differential with an electromagnetic actuated clutch. Blessing has a locking differential, not a torque biasing differential, because it includes the electromagnetically actuated clutch. Element 78, referred to by the Examiner, forces the clutch packs into locking engagement when electromagnet 87 is actuated. To force the clutch packs into locking engagement, element 78 moves along the axis as the electromagnet is actuated and while the differential is rotated about the axis.

In the present invention, as defined in amended Claims 1 and 13, the present application is directed to a torque biasing differential wherein the retainer plate which is coupled to the housing is fixed from movement along the axis of the differential case as the differential case is rotated about the axis. Therefore, unlike Blessing, the retainer plate is fixed from movement during rotation of the differential case and can not move along the axis as required in Blessing to lock the clutch pack. Therefore, Applicants respectfully submit that amended Claims 1 and 13 and the claims depending thereupon define over Blessing and are in a condition for allowance.

The Examiner rejected Claims 12 and 14-15 under 35 U.S.C. § 103(a) as being unpatentable over Blessing et al. in view of U.S. Patent No. 5,527,229 to Ishihara et al. The Examiner uses Ishihara to show a planetary carrier having a boss, first and second friction plates, and where the second friction plates are fixed to rotate with the planetary carrier. Applicants respectfully submit that Ishihara does not

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supplement the limitations of Blessing in that Blessing, Ishihara, or the combined teachings of Blessing and Ishihara do not show a retainer plate fixed from movement along the axis as the differential case is rotated about the axis. Therefore, Ishihara does nothing to supplement the deficiencies of Blessing and the currently pending claims are in a condition for allowance over Blessing et al. in view of Ishihara et al.

Applicants have amended Claim 4 to include each and every limitation of the independent claim and any intervening claims. Applicants respectfully submit that amended Claim 4 is in a condition for allowance.

Applicants respectfully submit that all pending claims are in a condition for allowance. If the Examiner believes that personal communication would expedite the prosecution of this application, please telephone the undersigned at (248) 433-7231.

Prompt and favorable consideration and allowance of this application is respectfully requested.

Respectfully submitted,

DICKINSON WRIGHT PLLC
Attorneys for Applicants

Date: 6-29-05

By: Craig A. Phillips

Craig A. Phillips
Reg. No. 47,858

Dickinson Wright PLLC
1901 L Street, NW
Suite 800
Washington, D.C. 20036
(248) 433-7231

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Enclosures

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